

Appeal from decision of Idaho State Office, Bureau of Land Management, returning unrecorded notices of location and declaring the claims to be abandoned and void. 3833 (943).

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Recordation

Under sec. 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(b) (1976), and 43 CFR 3833.1-2(b), the owners of unpatented lode or placer mining claims located after Oct. 21, 1976, within 90 days after the location of such claims, must file in the proper BLM office a copy of the official record of the notice of location or certificate of location. Failure to file such instruments timely is deemed conclusively to constitute an abandonment of the mining claims by the owners, and they are properly declared void.

APPEARANCES: Ross Murray, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Ross Murray appeals the December 14, 1981, decision of the Idaho State Office, Bureau of Land Management (BLM), which returned the service fees and the copies of the notices of location for the unpatented Numbers 1 through 14 Reese Creek Iron mining claims because the notices of location were not filed with BLM within 90 days after the date of location of the mining claims as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2(b). The notices of location indicated the claims were located August 27, 1981. The copies of the notices were received by BLM December 9, 1981, after the prescribed time period.

Appellant states that an accident to his sister required him to stay with her and, in the confusion of moving back and forth between her house and his, the copies of the notices of location were misplaced. After he found them on December 7, he immediately sent them to BLM with the required service fees of \$70. He beseeches a favorable decision in this matter, because of the unfortunate circumstances which caused the delay.

[1] Section 314(b) of FLPMA requires the owner of unpatented lode mining claims located after October 21, 1976, to file a copy of the official record of the notices of location in the proper BLM office within 90 days after the date of location; section 314(c) provides that failure to file the instruments required by section 314(b) shall be deemed conclusively to constitute an abandonment of the claims by the owner. The requirements of the statute and the consequence for noncompliance are restated in the regulations at 43 CFR 3833.1-2(b) and 3833.4(a).

As the copies of the notices of location for the Reese Creek group of claims were not filed with BLM within 90 days after August 27, 1981, the date of location, BLM correctly refused to accept the filings tendered December 9, 1981. The Reese Creek Iron claims must be deemed abandoned pursuant to section 314 of FLPMA. Herman Black, 60 IBLA 229 (1981); Prudential Mining & Exploration, Inc., 60 IBLA 363 (1981). The Board has decided in numerous cases that the statute permits no exception to the requirement of timely filing of the notice of location with BLM. See, e.g., Northwest Citizens for Wilderness Mining Co., Inc., 33 IBLA 317 (1978), aff'd, Northwest Citizens for Wilderness Mining v. Bureau of Land Management, Civ. No. 78-46-M (D. Mont. June 19, 1979). The consequences of noncompliance are dictated by the statute itself, and this Board has no authority to extend the time nor to afford any relief from the consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Appellant may wish to consult with BLM about the possibility of relocating these claims.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Anne Poindexter Lewis
Administrative Judge

